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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9 AMERICAN FREEDOM DEFENSE  
INITIATIVE; PAMELA GELLER; and  
ROBERT SPENCER,

10 Plaintiffs,

11 -v.-

12 KING COUNTY,

13 Defendant.  
14

Case No.

**COMPLAINT**

[42 U.S.C. § 1983]

15 Plaintiffs American Freedom Defense Initiative (hereinafter referred to as “AFDI”),  
16 Pamela Geller, and Robert Spencer (collectively referred to as “Plaintiffs”), by and through  
17 their undersigned counsel, bring this Complaint against Defendant King County (hereinafter  
18 referred to as “Defendant” or “King County”), its employees, agents, and successors in office,  
19 and in support thereof allege the following upon information and belief:

20 **INTRODUCTION**

21 1. This case seeks to protect and vindicate fundamental constitutional rights. It is a  
22 civil rights action brought under the First and Fourteenth Amendments to the United States  
23 Constitution and 42 U.S.C. § 1983, challenging Defendant’s restriction on Plaintiffs’ right to  
24 engage in protected speech in a public forum created by Defendant based on the content and  
25 viewpoint of Plaintiffs’ message. Defendant prohibited Plaintiffs from displaying an

COMPLAINT; Case No. \_\_\_\_\_

1 advertisement on King County property based on Defendant's assertion that Plaintiffs'  
2 advertisement violates its Transit Advertising Policy ("Free Speech Restriction"), which  
3 operates as a prior restraint on Plaintiffs' speech.

4 2. Plaintiffs seek a declaration that Defendant violated their clearly established  
5 constitutional rights as set forth in this Complaint; a declaration that Defendant's Free Speech  
6 Restriction violates the United States Constitution and 42 U.S.C. § 1983 as set forth in this  
7 Complaint; a preliminary and permanent injunction enjoining the enforcement of Defendant's  
8 Free Speech Restriction as set forth in this Complaint; and nominal damages for the past loss of  
9 Plaintiffs' constitutional rights. Plaintiffs also seek an award of reasonable costs of litigation,  
10 including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and other applicable law.

#### 11 **JURISDICTION AND VENUE**

12 3. This action arises under the Constitution and laws of the United States.  
13 Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

14 4. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28  
15 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by  
16 the general legal and equitable powers of this Court. Plaintiffs' claim for nominal damages is  
17 authorized by 42 U.S.C. § 1983.

18 5. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the  
19 events or omissions giving rise to Plaintiffs' claims occurred in this district.

#### 20 **PLAINTIFFS**

21 6. Plaintiff AFDI is an organization that is incorporated under the laws of the State  
22 of New Hampshire. AFDI is a human rights organization dedicated to freedom of speech,  
23 freedom of conscience, freedom of religion, freedom from religion, and individual rights.

24 7. AFDI achieves its objective through a variety of lawful means, including  
25 through the exercise of its right to freedom of speech under the United States Constitution.



17. By policy and practice, Defendant has created a designated public forum for the display of public service, public issue, and political issue advertisements on its advertising space.

18. Upon information and belief, Defendant leased its advertising space for an advertisement sponsored by the Federal Bureau of Investigation (“FBI”) and / or the Joint Terrorism Task Force (“JTTF”), advertising global terrorism awareness (“FBI-JTTF Advertisement”) as follows:



19. A true and correct copy of the FBI-JTTF Advertisement is attached to this Complaint as Exhibit 1 and incorporated herein by reference.

20. Upon information and belief, the FBI-JTTF Advertisement was displayed on Defendant’s buses in or about June 2013.

21. According to press reports, the FBI decided to terminate the FBI-JTTF Advertisement campaign after receiving complaints from politicians and advocacy groups that the list of wanted global terrorists pictured in the advertisement appeared to include mostly Muslim terrorists.

22. The FBI publishes a listing of the world’s most wanted global terrorists on its website. That listing is located at: [http://www.fbi.gov/wanted/wanted\\_terrorists/@@wanted-group-listing](http://www.fbi.gov/wanted/wanted_terrorists/@@wanted-group-listing) (“FBI Terrorist List”). A true and correct copy of the FBI Terrorist List is attached to this Complaint as Exhibit 2 and incorporated herein by reference.

23. The FBI Terrorist List includes pictures and “wanted posters” for thirty-two terrorists. Of the thirty-two listed terrorists, thirty are individuals with Muslim names and / or

25. Additional advertisements accepted by Defendant for display on its advertising space include the following:

**Pregnant? Worried?**

We Can Help. Free and Confidential Abortion At

**No matter what this is an anti-choice organization. They will NOT present you with all your legal & medical options. Call Planned Parenthood toll-free 1-800-238-7673.**

Call Birthright of Seattle at  
**206-957-7790**

**1-800-555-4900**  
 24 HOURS

www.b...

A side view of a teal and yellow bus. A large red banner is attached to the side, featuring the text "SAVE GAZA!" in large white letters, "JUSTICE FOR ALL." in smaller white letters below it, and "theacc.org" in white text on the right. The bus has a yellow lower section and a teal upper section. The number "49" is visible on the side window. The bus is parked on a street with buildings and trees in the background.

c. In or about December 2010, Defendant permitted the display of a controversial advertisement, "ISRAELI WAR CRIMES: YOUR TAX DOLLARS AT WORK," only to pull the advertisement under the credible threat of violence:



26. Accordingly, Defendant permits, as a matter of policy and practice, a wide variety of commercial, noncommercial, public-service, public-issue, and political-issue advertisements on its advertising space (hereinafter "Free Speech Policy").

27. Pursuant to Defendant's Free Speech Policy and particularly in light of the fact that Defendant permitted and displayed the FBI-JTTF Advertisement, Plaintiffs submitted for approval on or about July 30, 2013, an advertisement that was substantively similar to the FBI-JTTF Advertisement ("AFDI Advertisement").

28. The AFDI Advertisement appears as follows:



29. The AFDI Advertisement includes the identical pictures and names of the wanted global terrorists that appeared in the FBI-JTTF Advertisement.

30. A true and accurate copy of the AFDI Advertisement is attached to this Complaint as Exhibit 4 and incorporated herein by reference.



31. The AFDI Advertisement presents a similar educational and public service message as the FBI-JTTF Advertisement. Both advertisements alert the public of the importance of stopping global terrorism by raising awareness of the threat and encouraging citizens to communicate with the appropriate government agencies when they have information leading to the possible whereabouts of a global terrorist.

32. The message of the AFDI Advertisement is very timely in light of current world events where global terrorists are engaging in violent jihad against America's national security interests throughout the world and at home.

33. Acceptance of political- and public-issue advertisements, specifically including Defendant's acceptance of the FBI-JTTF Advertisement, demonstrates that the forum is suitable for the AFDI Advertisement.

34. On August 15, 2013, counsel for Plaintiffs received the following notice via email from Mr. Scott Goldsmith, Esq., the executive vice president and chief commercial officer of Titan Outdoor LLC (a/k/a Titan360 and Titan) (hereinafter "Titan"), the advertising agent working for and on behalf of Defendant to lease advertising space on Defendant's buses:

From: Scott Goldsmith [mailto:Scott.Goldsmith@titan360.com]  
Sent: Thursday, August 15, 2013 3:02 PM  
To: david.yerushalmi@verizon.net  
Cc: rmuise@americanfreedomlawcenter.org  
Subject: AFDI proposed ad "FACES OF GLOBAL TERRORISM" cannot be accepted.

David: Please see below. I am available to discuss. Thank you. Scott.

*Scott E. Goldsmith, Esq.*  
EVP & Chief Commercial Officer  
100 Park Avenue  
New York, NY 10017  
T (212) 891-5688  
F (212) 418-1082  
scott.goldsmith@titan360.com  
TITAN  
titan360.com

From: Sharron Shinbo <Sharron.Shinbo@kingcounty.gov>  
Date: Thursday, August 15, 2013 2:38 PM  
To: Scott Goldsmith <Scott.Goldsmith@titan360.com>  
Cc: Don Allman <Don.Allman@titan360.com>, Pamela Quadros  
<Pamela.Quadros@titan360.com>  
Subject: AFDI proposed ad "FACES OF GLOBAL TERRORISM" cannot be  
accepted

Dear Mr. Goldsmith,

Based on our current advertising policy, the American Freedom Defense Initiative  
ad, "FACES OF GLOBAL TERRORISM", cannot be accepted. The  
advertisement does not comply with Subsections 6.2.4, 6.2.8 and 6.2.9, set forth  
below.

6.2.4 False or Misleading. Any material that is or that the sponsor reasonably  
should have known is false, fraudulent, misleading, deceptive or would constitute  
a tort of defamation or invasion of privacy.

6.2.8 Demeaning or Disparaging. Advertising that contains material that  
demeans or disparages an individual, group of individuals or entity. For purposes  
of determining whether an advertisement contains such material, the County will  
determine whether a reasonably prudent person, knowledgeable of the County's  
ridership and using prevailing community standards, would believe that the  
advertisement contains material that ridicules or mocks, is abusive or hostile to, or  
debases the dignity or stature of any individual, group of individuals or entity.

6.2.9 Harmful or Disruptive to Transit System. Advertising that contains  
material that is so objectionable as to be reasonably foreseeable that it will result  
in harm to, disruption of or interference with the transportation system. For  
purposes of determining whether an advertisement contains such material, the  
County will determine whether a reasonably prudent person, knowledgeable of  
the County's ridership and using prevailing community standards, would believe  
that the material is so objectionable that it is reasonably foreseeable that it will  
result in harm to, disruption of or interference with the transportation system.

For your reference, I have attached a copy of Metro's Transit Advertising Policy.

35. This email represents the final decision by Defendant to reject the AFDI  
Advertisement and thereby restrict Plaintiffs' speech. ("Free Speech Restriction").

36. Attached to the email was a document titled "Transit Advertising Policy," which  
is an official policy promulgated by Defendant. This policy served as the basis for Defendant's



1 Free Speech Restriction. A true and correct copy of the Transit Advertising Policy is attached  
2 to this Complaint as Exhibit 5 and incorporated herein by reference.

3 37. Defendant's rejection of the AFDI Advertisement caused irreparable harm to  
4 Plaintiffs.

5 38. Pursuant to clearly established First Amendment jurisprudence, the loss of First  
6 Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable  
7 injury sufficient to warrant injunctive relief.

8 **FIRST CLAIM FOR RELIEF**

9 **(Freedom of Speech—First Amendment)**

10 39. Plaintiffs hereby incorporate by reference all stated paragraphs.

11 40. By reason of the aforementioned Free Speech Restriction, which includes  
12 Defendant's Transit Advertising Policy, created, adopted, and enforced under color of state  
13 law, Defendant has deprived Plaintiffs of their right to engage in protected speech in a public  
14 forum in violation of the Free Speech Clause of the First Amendment as applied to the states  
15 and their political subdivisions under the Fourteenth Amendment to the United States  
16 Constitution and 42 U.S.C. § 1983.

17 41. Defendant's Free Speech Restriction, facially and as applied to Plaintiffs'  
18 speech, is content- and viewpoint-based in violation of the Free Speech Clause of the First  
19 Amendment.

20 42. Defendant's Free Speech Restriction operates as a prior restraint on Plaintiffs'  
21 speech; therefore, it comes to this Court bearing a heavy presumption against its constitutional  
22 validity.

23 43. Defendant's Free Speech Restriction, facially and as applied to Plaintiffs'  
24 speech, is unreasonable and an effort to suppress expression merely because public officials  
25

1 oppose the speaker's view, including the view expressed by Plaintiffs in the AFDI  
2 Advertisement.

3 44. Defendant's Free Speech Restriction, facially and as applied to Plaintiffs'  
4 Speech, offends the First Amendment by granting a public official unbridled discretion such  
5 that the official's decision to limit speech is not constrained by objective criteria, but may rest  
6 on ambiguous and subjective reasons.

7 45. Defendant's Free Speech Restriction, facially and as applied to Plaintiffs'  
8 speech, provides no objective guide for distinguishing between permissible and impermissible  
9 advertisements in a non-arbitrary, viewpoint-neutral fashion as required by the First  
10 Amendment.

11 46. As a direct and proximate result of Defendant's violation of the Free Speech  
12 Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of  
13 their constitutional rights, entitling them to declaratory and injunctive relief and nominal  
14 damages.

## 15 **SECOND CLAIM FOR RELIEF**

### 16 **(Equal Protection—Fourteenth Amendment)**

17 47. Plaintiffs hereby incorporate by reference all stated paragraphs.

18 48. By reason of the aforementioned Free Speech Restriction, which includes  
19 Defendant's Transit Advertising Policy, created, adopted, and enforced under color of state  
20 law, Defendant has unconstitutionally deprived Plaintiffs of the equal protection of the law  
21 guaranteed under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §  
22 1983, in that Defendant is preventing Plaintiffs from expressing a message in a public forum  
23 based on the content and viewpoint of the message, thereby denying the use of this forum to  
24 those whose views Defendant finds unacceptable.



1 A) to declare that Defendant violated the First and Fourteenth Amendments to the  
2 United States Constitution as set forth in this Complaint;

3 B) to preliminarily and permanently enjoin Defendant's Free Speech Restriction,  
4 which includes Defendant's Transit Advertising Policy, as set forth in this Complaint;

5 C) to award Plaintiffs nominal damages for the past loss of their constitutional  
6 rights as set forth in this Complaint;

7 D) to award Plaintiffs their reasonable attorney fees, costs, and expenses pursuant  
8 to 42 U.S.C. § 1988 and other applicable law; and

9 E) to grant such other and further relief as this Court should find just and proper.

10 Respectfully submitted,

11 Stephen Pidgeon Attorney at Law, P.S.

12 /s/ Stephen Pidgeon

13 Stephen Pidgeon, Esq. WSBA # 25265

14 Attorney at Law, P.S.

15 3002 Colby Avenue, Suite 306

16 Everett, Washington 98201

17 attorney@stephenpidgeon.com

18 Tel: (425) 605-4774; Fax: (425) 818-5371

19 AMERICAN FREEDOM LAW CENTER

20 /s/ Robert J. Muise

21 Robert J. Muise, Esq.\* (MI P62849)

22 P.O. Box 131098

23 Ann Arbor, Michigan 48113

24 rmuise@americanfreedomlawcenter.org

25 Tel: (734) 635-3756; Fax: (801) 760-3901

/s/ David Yerushalmi

David Yerushalmi, Esq.\* (DC # 978179)

1901 Pennsylvania Avenue NW, Suite 201

Washington, D.C. 20001

david.yerushalmi@verizon.net

Tel: (646) 262-0500; Fax: (801) 760-3901

\*Application for *pro hac vice* admission pending.